

HOUSE BILL NO. 485

INTRODUCED BY E. ARNTZEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING EMINENT DOMAIN LAWS RELATING TO MOBILE HOME PARKS TO PROVIDE FOR NOTICE OF POTENTIAL CONDEMNATION TO THE TENANTS OF THE MOBILE HOME PARK AND TO CLARIFY ELIGIBILITY FOR FEDERAL RELOCATION ASSISTANCE; AMENDING SECTIONS 70-30-203 AND 70-31-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 70-30-203, MCA, is amended to read:

"70-30-203. Contents of complaint -- special provisions. (1) The complaint for condemnation must contain:

(a) the name of the corporation, association, commission, or person in charge of the public use for which the property is sought to be taken, who is the plaintiff;

(b) the names of all owners, purchasers under contracts for deed, mortgagees, and lienholders of record and any other claimants of record of the property sought to be taken, if known, or a statement that they are unknown, who are the defendants;

(c) a statement of the right of the plaintiff to take the property for public use;

(d) statements of each of the facts necessary to be found in 70-30-111;

(e) a description of each interest in real property sought to be taken, a statement of whether the property sought to be taken includes the whole or only a part of the entire parcel or tract, and a statement that the interest sought is the minimum necessary interest. All parcels lying in the county and required for the same public use may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of the parties.

(f) a statement of the condemnor's claim of appropriate payment for damages to the property proposed to be taken as well as to any remaining parcel of property.

(2) If a right-of-way is sought, in addition to the items listed in subsection (1), the complaint must show the location, general route, and termini and must be accompanied with a map of the route, so far as the route is

involved in the action or proceeding.

(3) (a) If a sand, stratum, or formation suitable for use as an underground natural gas storage reservoir is sought to be taken, in addition to the items listed in subsection (1), the complaint must include a description of the reservoir and of the land in which the reservoir is alleged to be contained and a description of all other property and rights sought to be taken for use in connection with the right to store natural gas in and withdraw natural gas from the reservoir.

(b) In addition, the complaint must state facts showing that:

(i) the reservoir is subject to being taken by the plaintiff;

(ii) the underground storage of natural gas in the land sought to be taken is in the public interest;

(iii) the reservoir is suitable and practicable for natural gas storage;

(iv) the plaintiff in good faith has been unable to acquire the rights sought to be taken; and

(v) a statement that the rights and property sought to be taken are not prohibited by law from being taken.

(c) The complaint must be accompanied by a certificate from the board of oil and gas conservation as provided in 82-10-304.

(4) If the property sought to be taken is a mobile home park, as defined in 70-33-103, a copy of the complaint must be served on each tenant in the mobile home park."

Section 2. Section 70-31-102, MCA, is amended to read:

"70-31-102. Definitions. As used in this chapter, unless the context otherwise requires, the following definitions apply:

(1) "Agency" means a department, agency, or instrumentality of the state of Montana or of a political subdivision of the state, a department, agency, or instrumentality of two or more states or two or more political subdivisions of the state or of two or more states, or a person who has the authority to acquire property by eminent domain as provided in Title 70, chapter 30.

(2) "Appraisal" means a written statement, independently and impartially prepared by a qualified appraiser, setting forth an opinion of defined value of an adequately described property as of a specified date and supported by the presentation and analysis of relevant market information.

(3) "Average annual net earnings" means one-half of any net earnings of a business or farm operation, before federal and state income taxes, during the 2 tax years immediately preceding the tax year in which the

1 business or farm operation moves from real property acquired for a project of an agency (for which federal
2 financial assistance is available to pay all or any part of the cost) or during any other period that the acquiring
3 agency determines to be more equitable for establishing earnings and includes any compensation paid by the
4 business or farm operation to the owner, the owner's spouse, or the owner's dependents during the period.

5 (4) "Business" means any lawful activity, except a farm operation, conducted:

6 (a) primarily for the purchase, sale, lease, and rental of personal and real property and for the
7 manufacture, processing, or marketing of products, commodities, or any other personal property;

8 (b) primarily for the sale of services to the public;

9 (c) primarily by a nonprofit organization; or

10 (d) solely for the purposes of paying moving or related expenses to assist in the purchase, sale, resale,
11 manufacture, processing, or marketing of products, commodities, personal property, or services by the erection
12 and maintenance of an outdoor advertising display or displays, whether or not the display or displays are located
13 on the premises on which any of the activities included as a business are conducted.

14 (5) (a) "Displaced person" means:

15 (i) any person who moves from real property or moves that person's personal property from real property:

16 (A) as a direct result of a written notice of intent to acquire or by the acquisition of the real property, in
17 whole or in part, for a program or project undertaken by a displacing agency for which federal financial assistance
18 will be available to pay all or any part of the cost; or

19 (B) on which the person is a residential tenant, including a tenant in a mobile home park, or conducts
20 a small business, farm operation, or a business defined in subsection (4)(d), as a direct result of rehabilitation,
21 demolition, or other displacing activity prescribed by the agency under a program or project undertaken by a
22 displacing agency that has determined that the displacement is permanent and for which federal financial
23 assistance will be available to pay all or any part of the cost;

24 (ii) any person who, for purposes of providing moving and related expenses or relocation advisory
25 services only, moves from real property or moves that person's personal property from real property as a direct
26 result of:

27 (A) a written notice of intent to acquire or as a direct result of the acquisition of other real property, in
28 whole or in part, on which the person conducts a business or farm operation, for a program or project undertaken
29 by a displacing agency; or

30 (B) the rehabilitation, demolition, or other displacing activity prescribed by the agency under a program

or project undertaken by a displacing agency that has determined that the displacement is permanent.

(b) The term "displaced person" does not include a person who:

(i) has been determined, according to criteria established by the agency, to be either unlawfully occupying the displacement dwelling or to have been occupying the dwelling for the purpose of obtaining assistance under this part; or

(ii) occupies property owned by the agency on a short-term rental basis or for a period subject to termination when the property is needed for the program or project and who was not an occupant of the property at the time it was acquired by the agency.

(6) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use and customarily producing agricultural products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(7) "Federal act" means the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970" or as that act may be amended.

(8) "Federal financial assistance" means a grant, loan, or contribution provided by the United States, except any federal guarantee or insurance.

(9) "Person" means any individual, partnership, corporation, or association."

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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